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C O N F I D E N T I A L SECTION 01 OF 03 KATHMANDU 001465

SIPDIS

LONDON FOR POL/RIEDEL

E.O. 12958: DECL: 07/25/2012

TAGS: PHUM PGOV SOCI PTER PREL NP

SUBJECT: NEPAL'S NATIONAL HUMAN RIGHTS COMMISSION FLOUNDERS  
AS MEMBER EJECTED FOR ETHICAL PROBLEMS

Classified By: Ambassador Michael E. Malinowski, Reasons 1.5 (b), (d).

1. (C) Summary: A founding member of Nepal's National Human Rights Commission (NHRC) was suspended from the body on July 24 for "behavior unbecoming the glory of the post." The incident underlines serious flaws in the NHRC: members' strong political affiliations have led to a polarization of the body, a lack of impartiality, and infighting. Perceived Maoist sympathies have created a distrust of the NHRC in the government, fueling non-cooperation and underfunding. Because of conflicts between members, lack of support from the government, and competing pressures from the human rights community, the NHRC has been largely unsuccessful in its efforts to alleviate human rights problems in Nepal. To be a more effective body, the Commission requires increased funding, changes in the appointment process, and a renewed commitment by its members to the principles of impartiality and transparency. End Summary.

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Founding Member Booted Off  
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2. (C) The July 24 suspension of National Human Rights Commission (NHRC) member Kapil Shrestha has brought to light the weaknesses and internal conflicts that plague Nepal's NHRC. According to press reports, both an NGO activist and a former NHRC employee had charged Shrestha with ethical lapses which included "misbehaving" with a Dalit woman. (Note: Dalits are a low-caste group widely discriminated against in Nepal. End Note.) Rumors of this indiscretion, which reportedly took place while Shrestha and the woman were abroad at an international conference, had been circulating in the capital for some time. Shrestha has denied the allegations. The other NHRC members decided amongst themselves to suspend Shrestha and refer his case to the Speaker of the House of Representatives for action on his continued tenure. (Note: Ordinarily, the House's Human Rights Committee would take up the case, but Nepal's Parliament has been dissolved pending new elections later this year. End Note.)

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Only Two Years Old, Human Rights Body Riven By Conflict  
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3. (C) The Commission has been steeped in controversy since its beginnings. Mandated by an Act of Parliament in 1997, it was not established until June 5, 2000 following a massive campaign by the human rights community. Commission members are appointed by the King on the advice of a Recommendation Committee made up of the Prime Minister, the Chief Justice of the Supreme Court, and the leader of the opposition party in the House of Representatives. Though appointed by political parties, the appointees are supposed to maintain neutrality. The NHRC carries out its mandate through the conduct of inquiries and investigations and by undertaking research and education initiatives.

4. (SBU) The NHRC's founding membership consists of Chairman Nayan Khetri, an elderly man described by members as unable to make strong decisions; Indira Rana, a moderate with links to the Nepali Congress Party and a good track record for transparency; Sushil Pyakurel, a opposition-party-affiliated radical with a long history of far-left activism; and Gouri Shankar Lal Das, a pre-democracy era public health official who has remained almost invisible in NHRC activities. Kapil Shrestha, the suspended founding member, is a self-proclaimed "independent" who has been increasingly at odds with other members.

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Politicization and Infighting  
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5. (C) According to the members themselves, the NHRC is seriously flawed on account of its members' polarized political leanings. This polarization has led to partiality, infighting, and low productivity. Founding member Indira Rana views that NHRC members are divided along party lines and are therefore reluctant to investigate allegations made against members of their own parties. The Commission's

impartiality and credibility have been impaired as a result. Members admitted to us that they had difficulty being impartial in large part because they obtained their positions at the recommendation of political party representatives.

16. (C) Rana added that political differences have led to infighting between Commission members and staff. Conflict is a constant issue in the NHRC, and it was arguments over work that led to the accusations that forced Kapil Shrestha's suspension. Infighting and the questionable behavior of some members has hurt the NHRC's reputation at a time when trust and support is vital to its survival, Rana stated. Rana also feels marginalized and overruled by the increasing assertiveness of members Sushil Pyakurel and, before his suspension, Kapil Shrestha.

17. (C) In an interview not long before his suspension, Kapil Shrestha acknowledged the deep animosity between Commission members. After his suspension, he declared the action taken against him "a conspiracy." Shrestha also admitted to us that the NHRC tends to take a sympathetic attitude towards the Maoists, particularly in the last six months. This, he said, was due to the dominance of left-leaning members.

18. (C) Prakash A. Raj, a well-respected professional writer who worked for the NHRC on its annual human rights report, quit for this very reason. He says that the five team members assigned under him were appointed by Sushil Pyakurel, a Communist Party-affiliated member. Raj believes that one team member was secretly a Maoist. Raj quit because his team refused to emphasize Maoist human rights violations in the report and was trying to move the content away from the insurgency entirely. He says that the Commission's political leanings prevent it from taking a balanced view of human rights conditions.

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Government Mistrust  
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19. (C) Initially reluctant to establish the Commission, the government has provided only minimal funding since its establishment. Even so, last year, its allocation was the largest so far at Rs. 5.6 million. According to Kapil Shrestha, the NHRC has to cope with a "largely non-cooperative response by government workers." He ascribes an adversarial relationship between the NHRC and the rest of the government to the fact that Commission members have been unable to shed their party affiliations, which draws its credibility into question. He also notes that the Chairman, Nayan Khatri, a pre-democracy era politician, has no relationship with political leaders, and so those leaders have no confidence in the NHRC. Moreover, some members say that apparent Maoist sympathies have created mistrust of the Commission in the government, which feels overly criticized by the body. They add that the Commission's lack of objectivity has resulted in widespread doubts about its credibility. A number of high-ranking military and police officials have told us of their belief that Sushil Pyakurel and his brother, a human rights activist, are covert Maoists.

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Relationship With NGOs Strained  
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110. (C) Inadequate government funding has forced the NHRC to seek the help of a variety of NGOs, further compromising its impartiality, says Kapil Shrestha. According to him, because of the influence that comes along with NGO funding, information, and research, "impartiality on a number of occasions has been compromised." In general, the NHRC has a very close relationship with Nepali NGOs, and relies on them for the bulk of its information regarding human rights abuses.

111. (C) The human rights community as a whole has unrealistically high expectations for the NHRC and expects it to take over much of their own duties, according to the British Embassy's Human Rights Officer. Indira Rana agrees that some NGOs are "not holding up their end" by providing consistent and accurate reporting, and they expect the NHRC to make up the difference. Krishna Pahadi of the Human Rights and Peace Society (HURPES) expressed the view that certain members of the Commission were not responsive to NGOs and would "cover-up" issues. He reports that HURPES will help strengthen the Commission only when the issue of its credibility and competence have been resolved.

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Limited Accomplishments, "Judicial Teeth"  
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112. (C) The NHRC has repeatedly failed to submit reports on time or at all, to account for the money they have received, and to get any response to or respect for their inquiries, insiders say. Says one, "I don't want to say that we've totally failed, but the Commission's capacity is extremely

limited, and our activities have become largely symbolic or confined to Kathmandu." British Emboff also feels that the NHRC suffers from a lack of "judicial teeth," and so without the cooperation of other government departments their work does not mean much. Despite its many shortcomings, the NHRC has managed to produce an annual Human Rights Report, organize several discussion seminars, and meet with government officials to urge them to respect human rights during the current state of emergency.

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Strengthening the Commission  
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¶13. (C) Because it is a government body, the Commission has tremendous potential as a driving force for human rights in Nepal, NGOs believe. They add that its serious flaws must be addressed for that potential to be realized. To that end, NHRC member Indira Rana suggests changing the appointment process of members to allow for open competition, and eliminating the minimum age of 40 years. She also would like to see another woman on the Commission so that more attention is given to women's issues, which are a vital human rights concern in Nepal.

¶14. (C) Several members also mentioned the need for more funding to reduce the NHRC's reliance on NGO support and to hire competent staff members. The NHRC has been long suffering from staff shortages because of both a lack of funds and a shortage of government-provided staff. Increased funding could also be used to improve the Commission's dilapidated, run-down offices. The British, Norwegian, and Danish Embassies have all provided funding for investigation purposes. The British say that supporting the NHRC is not very expensive, and only "limited funding is needed."

¶15. (C) Commission members also suggested that the international community put pressure on the government to respond to the inquiries of the NHRC in a truthful and timely manner and to make a pledge of general support. All agree, however, that the most important step to strengthening the Commission is for the members to work out their political differences, examine their practices to ensure transparency, and work to enforce impartiality at all levels.

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Comment  
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¶16. (C) The NHRC's flaws are cause for serious concern. Its public reputation is already poor, and the suspension of Kapil Shrestha, rather than raising confidence in the NHRC by its stand against inappropriate behavior, seems only to have brought the infighting out into the open. Unless its credibility improves, it will be difficult for the Commission to gain a higher level of government support and cooperation, and realize its role as both a human rights watchdog and a check against government abuses. We have encouraged the Nepali government to follow the stipulations of the Human Rights Commission Act of 1997 and cooperate fully with NHRC investigations. We have also maintained a close working relationship with the NHRC and urged it to take a more balanced and professional approach to its mission.

MALINOWSKI